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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR THE COUNTY OF CLARK

STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY,

Plaintiff,

v.

LEICHNER BROTHERS LAND
RECLAMATION CORPORATION,

Defendant.

96 2 03081 7

NO. _____

CONSENT DECREE

COPY
ORIGINAL FILED

JUL 17 1996

JoAnne McBride, Clerk, Clark Co.

CONSENT DECREE

ATTORNEY GENERAL OF WASHINGTON
Ecology Division
DO NOT 40117

1	XXV.	<u>IMPLEMENTATION OF REMEDIAL ACTION</u>	19
2	XXVI.	<u>RESERVATION OF RIGHTS</u>	19
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6	XXX.	<u>EFFECTIVE DATE</u>	21
7	XXXI.	<u>PUBLIC NOTICE AND WITHDRAWAL OF CONSENT</u>	21

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- 9 Exhibit A - Site Diagram
- 10 Exhibit B - Cleanup Action Plan
- 11 Exhibit C - Restrictive Covenant
- 12 Exhibit D - Option Agreement
- 13 Exhibit E - Financial Assurances
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1 F. The Court is fully advised of the reasons for entry of this Decree, and good
2 cause having been shown:

3 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:

4 **I. JURISDICTION**

5 A. This Court has jurisdiction over the subject matter and over the Parties
6 pursuant to chapter 70.105D RCW, the Model Toxics Control Act (MTCA). Venue is
7 properly laid in Clark County, the location of the property at issue.

8 B. Authority is conferred upon the State of Washington Attorney General by
9 RCW 70.105D.040(4)(a) to agree to a settlement with any potentially liable party if, after
10 public notice and hearing, Ecology finds the proposed settlement would lead to a more
11 expeditious cleanup of hazardous substances in compliance with cleanup standards under
12 RCW 70.105D.030(2)(d). RCW 70.105D.040(4)(b) requires that such a settlement be
13 entered as a consent decree issued by a court of competent jurisdiction.

14 C. Ecology has given notice to Leichner, as provided in RCW 70.105D.020(15),
15 of Ecology's determination that Leichner is a potentially liable person with respect to the
16 Site and that there has been a release or threatened release of hazardous substances at the
17 Site.

18 D. Ecology has determined that past activities at the Site have given rise to a
19 release of hazardous substances, which requires remedial action pursuant to chapter
20 70.105D RCW.

21 E. The actions to be taken pursuant to this Decree are necessary to protect the
22 public health, welfare, and the environment.

23 F. By entering into this Decree, Leichner agrees not to challenge the jurisdiction
24 of Ecology in any proceeding to enforce this Decree. Leichner has agreed to voluntarily
25 undertake the actions specified in this Decree and consents to the issuance of this Decree,
26 pursuant to chapter 70.105D RCW.

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IV. STATEMENT OF FACTS

For purposes of entering this Decree only, the Parties agree the pertinent facts regarding the history of and previous investigations at this Site are set forth in Sections 1, 2, 3, and 4 of the Cleanup Action Plan (CAP), which is attached to this Decree as Exhibit B. By this reference, Exhibit B is incorporated into this Decree.

V. WORK TO BE PERFORMED

A. This Decree contains a program designed to protect the public health and welfare and the environment from the known release, or threatened release, of hazardous substances at, on, or from the Site. A series of remedial actions completed by Leichner is described in the CAP, attached to this Decree as Exhibit B.

B. ^{↳ Cleanup Action Plan} Leichner agrees not to perform any remedial actions outside the scope of this Decree unless the Parties agree to amend the Decree to cover such actions.

C. All work conducted under this Decree shall be done in accordance with chapter 173-340 and chapter 173-304 Washington Administrative Code, unless otherwise provided herein.

D. Leichner shall comply with the terms of the post-closure permit to be issued by the Southwest Washington Health District ("Health District"). If the Health District has not issued the permit by September 1, 1996, then Ecology will amend the CAP to include post-closure requirements for the landfill. In addition, no later than thirty (30) days after the effective date of this Decree, Leichner shall submit a compliance monitoring plan to Ecology for review and approval. The compliance monitoring plan shall be prepared as outlined in WAC 173-340-410, and shall include a sampling and analysis plan that meets the requirements of WAC 173-340-820. When approved, Leichner shall comply with the Plan.

1 C. The project coordinator for Ecology is:

2 Rebecca Lawson, P.E.
3 510 Desmond Drive
4 P.O. Box 47775
5 Olympia, WA 98504-7775
6 Phone: (360) 407-6255
7 FAX: (360) 407-6305

8 D. The project coordinators for Leichner are:

9 Kevin Lakey
10 EMCON
11 18912 North Creek Parkway
12 Suite 100
13 Bothell, WA 98011
14 Phone: (206) 485-5000
15 FAX: (206) 486-9766

16 Craig Leichner
17 Leichner Brothers Land Reclamation Corp.
18 9411 NE 946th Avenue
19 Vancouver, WA 98666
20 Phone: (360) 892-9594
21 FAX: (360) 892-8471

22 VIII. PERFORMANCE

23 All work performed pursuant to this Decree shall be under the direction and
24 supervision, as necessary, of a professional engineer registered with the State of
25 Washington or certified hydrogeologist, or equivalent, with experience and expertise in
26 hazardous waste site investigation and cleanup. Leichner shall notify Ecology in writing of
the identity of such engineer(s) or hydrogeologist(s), and of any contractors and
subcontractors to be used in carrying out the terms of this Decree, in advance of their
involvement at the Site. Such notice shall include a summary of the qualifications of each
engineer, hydrogeologist, contractor, and subcontractor.

IX. ACCESS

Within twenty-four (24) hours of receiving a request for access, Leichner shall
provide Ecology, the Health District, and their authorized representatives, entry and access
to all property at the Site at all reasonable times for the purposes of, among other things:

1 emergency, Leichner shall notify Ecology as soon as possible (and prior to sampling, if
2 practical) of the nature of the emergency and of the type of samples collected. Ecology
3 shall, upon request, allow Leichner or its authorized representative to take splits or
4 duplicates of any samples collected by either of them pursuant to this Decree. All sampling
5 shall be conducted in accordance with the approved sampling and analysis plans. To the
6 extent practicable, and without limitation on Ecology's rights under Section IX, Ecology
7 shall endeavor to notify Leichner five (5) days prior to any planned sample collection
8 activity.

9 XI. PROGRESS REPORTS

10 Leichner shall submit to Ecology and the Health District periodic written progress
11 reports that describe the actions taken during the reporting period to implement the
12 requirements of this Decree. The progress reports shall include detailed documentation of
13 any activity conducted on-site, including all quality-assured data and, if requested, raw data
14 received by Leichner during the previous reporting period. All progress reports shall be
15 submitted by the tenth day of the reporting period in which they are due after the effective
16 date of this Decree. Progress reports shall be submitted on a frequency set forth in the
17 approved compliance monitoring plan. Unless otherwise specified, progress reports and
18 any other documents submitted pursuant to this Decree shall be sent by U.S. mail to
19 Ecology's project coordinator at the address given in Section VI.

20 XII. RETENTION OF RECORDS

21 Leichner shall preserve, for the duration of this Decree and for ten (10) years from
22 the date of issuance of the notice as provided in Section XXIX, all records, reports,
23 documents, and underlying data in its possession relevant to the implementation of this
24 Decree, and shall insert in contracts with project contractors the same record retention
25 requirement. Upon request by Ecology, Leichner shall make all non-privileged records
26 available to Ecology and shall allow access for review of non-privileged, non-archived

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1 Decree. No oral communication from Ecology staff may relieve Leichner of the obligation
2 specified herein.

3 D. Ecology shall notify Leichner in writing of any Ecology-proposed amendment
4 and the basis for such proposal. Leichner shall thereafter comply with such modifications,
5 or if it does not agree with those modifications, the disagreement shall be addressed through
6 the dispute resolution procedures described in Section XIV of this Decree.

7 **XVI. EXTENSION OF SCHEDULE**

8 A. An extension of schedule may be granted only when a request for an
9 extension is submitted in a timely fashion and good cause exists for granting the extension.
10 All extensions shall be requested in writing. The request shall specify the reason(s) the
11 extension is needed. A requested extension shall not be effective until approved by Ecology
12 or the Court. Ecology shall act upon any written request for extension in a timely fashion.
13 It shall not be necessary to formally amend this Decree pursuant to Section XV when a
14 schedule extension is granted.

15 B. The burden shall be on Leichner to demonstrate to the satisfaction of Ecology
16 that the request for extension has been submitted in a timely fashion and that good cause
17 exists for granting the extension. Good cause includes, but is not limited to, the following:

18 (1) Circumstances beyond the reasonable control and despite the due
19 diligence of Leichner, including delays caused by unrelated third Parties or by Ecology,
20 such as delays by Ecology in reviewing, approving, or modifying documents submitted by
21 Leichner; or

22 (2) Acts of God, including earthquake, fire, flood, blizzard, extreme
23 temperatures, storm, abnormal wave or water conditions, or other unavoidable casualty; or

24 (3) Endangerment as described in Section XVII.
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1 stopped, shall be extended, pursuant to Section XVI of this Decree, for such period of time
2 as Ecology determines is reasonable under the circumstances.

3 B. If Leichner determines that activities undertaken in furtherance of this Decree
4 or any other circumstances or activities are creating or have the potential to create a danger
5 to the people on the Site or in the surrounding area or to the environment, Leichner may
6 stop implementation of this Decree for such period of time necessary for Ecology to
7 evaluate the situation and to determine whether Leichner should proceed with
8 implementation of the Decree, or whether the work stoppage should continue until the
9 danger is abated. Leichner shall notify either Ecology field personnel on-site or the project
10 coordinator as soon as possible, but no later than twenty-four (24) hours after such stoppage
11 of work, and shall provide Ecology with documentation of its analysis in reaching this
12 determination. If Ecology disagrees with Leichner's determination, it may direct Leichner
13 to resume implementation of this Decree. If Ecology concurs in the work stoppage,
14 Leichner's obligations shall be suspended and the time period for performance of that work,
15 as well as the time period for any other work dependent upon the work which was stopped,
16 shall be extended, pursuant to Section XVI of this Decree, for such period of time as
17 Ecology determines is reasonable under the circumstances. Any disagreements pursuant to
18 this clause shall be resolved through the dispute resolution procedures in Section XIV.

19 **XVIII. COVENANT NOT TO SUE**

20 A. In consideration of Leichner's compliance with the terms and conditions of
21 this Decree, the state agrees that compliance with this Decree shall stand in lieu of any and
22 all administrative, legal, and equitable remedies and enforcement actions available to the
23 state against Leichner for the release or threatened release of hazardous substances covered
24 by the terms of this Decree.

25 B. This covenant is strictly limited in its application to the Site specifically
26 defined in Exhibit A and to those hazardous substances that Ecology knows to be located at

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1 both the procedural and substantive requirements of the laws referenced in RCW
2 70.105D.090(1), including any requirements to obtain permits.

3 **XXII. COST REIMBURSEMENT**

4 A. Leichner agrees to pay costs incurred by Ecology pursuant to this Decree.
5 These costs shall include work performed by Ecology or its contractors for, or on, the Site
6 under Ch. 70.105D RCW both prior to and subsequent to the issuance of this Decree for
7 investigations, remedial actions, and Decree preparation, negotiations, oversight and
8 administration. Ecology costs shall include costs of direct activities and support costs of
9 direct activities as defined in WAC 173-340-550(2). Leichner agrees to pay the required
10 amount within ninety (90) days of receiving from Ecology an itemized statement of costs
11 that includes a summary of costs incurred, an identification of involved staff, and the
12 amount of time spent by involved staff members on the project. A general statement of
13 work performed will be provided upon request. Itemized statements shall be prepared
14 quarterly. Failure to pay Ecology's costs within ninety (90) days of receipt of the itemized
15 statement will result in interest charges at the rate of twelve percent per annum.

16 B. Leichner shall not be required to pay permit fees under RCW 90.48.465 or
17 ch. 177-216 WAC because it is already paying Ecology oversight costs pursuant to this
18 section.

19 **XXIII. CLAIMS AGAINST THE STATE**

20 Leichner hereby agrees that it will not seek to recover any costs incurred in
21 implementing this Decree from the State of Washington or the Health District. Provided,
22 however, that this section does not apply to any grant funding that may be available.

23 **XXIV. FINANCIAL ASSURANCES**

24 A. Leichner has submitted to Ecology and the Health District an estimate of the
25 costs that it will incur in carrying out the terms of this Decree, including operation and
26 maintenance and compliance monitoring. Within 60 days of Ecology's review and approval

1 under RCW 70.105D.040, that may be asserted in the event of further administrative
2 proceedings or litigation not associated with, or related to, this Decree. Nor is the
3 execution or the performance of the Decree an agreement by Leichner to take any action at
4 the Site other than that described in this document.

5 XXVII. PERIODIC REVIEW

6 As provided in this section, from time to time during the term of this Decree as
7 remedial action proceeds at the Site, including but not limited to implementation of the
8 approved post-closure plans, the Parties agree to review all data accumulated as a result of
9 site monitoring. Periodic review shall occur at a minimum at least every five years during
10 the term of this Decree. During the periodic review, Ecology and Leichner shall conduct a
11 review of the status of the remedial action at the Site and the need, if any, for further
12 remedial action at the Site. The Health District shall be invited to participate in such
13 reviews.

14 XXVIII. PUBLIC PARTICIPATION

15 A Public Participation Plan is attached to this Decree as Exhibit F and is by
16 reference incorporated herein. Ecology shall maintain the responsibility for public
17 participation with respect to the Site. However, Leichner shall cooperate with Ecology and
18 shall:

19 A. Prepare drafts of public notices and fact sheets at important stages of the
20 remedial action, such as the submission of work plans and the completion of engineering
21 design. Ecology will finalize (including editing if necessary) and distribute such fact sheets
22 and prepare and distribute public notices of Ecology's presentations and meetings;

23 B. Notify Ecology's project coordinator prior to issuance of all press releases
24 and fact sheets and before major meetings on the remedial action (as with the public or
25 local government);
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1 If the Court withholds or withdraws its consent to this Decree, it shall be null and
2 void at the option of any party and the accompanying Complaint shall be dismissed without
3 costs and without prejudice. In such an event, no party shall be bound by the requirements
4 of this Decree.

5 For State of Washington,
6 Department of Ecology

7 Mary Burg 6/25/96
8 MARY BURG Date
9 Program Manager
Toxics Cleanup Program

For State of Washington
Attorney General's Office

Tanya Barnett June 25, 1996
TANYA BARNETT Date
WSBA #17491
Assistant Attorney General

10 For Leichner Brothers Land Reclamation Corporation

11
12 Ray Lechner June 12, 1996
13 Its President Date

_____ Date
Its

14 Approved as to form:

15
16 Leslie Hellerman 6/21/96
17 HELLER, EHRMAN, WHITE Date
18 & McAULIFFE
Attorneys for Leichner Brothers
Land Reclamation Corp.

19 DATED this 17 day of July, 1996.
20
21

22
23 /s/ EDWIN L. POWAIR
JUDGE/COMMISSIONER
24 Clark County Superior Court
25
26

EXHIBIT - B
CLEANUP ACTION PLAN
LEICHNER LANDFILL
CLARK COUNTY, WASHINGTON
JUNE 1996

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3. PROJECT HISTORY

In 1987, Ecology and Leichner executed Consent Order No. DE 86-S131 under authority of the State of Washington Water Pollution Control Act, Chapter 90.48 Revised Code of Washington (RCW). This order required Leichner to analyze site conditions and develop a corrective plan to protect public health and the environment. Work completed under the order confirmed the existence of hazardous substances in ground water under the site. This work is summarized in the February 1988 Remedial Investigation Report (RI) and the April 1988 Feasibility Study Report (FS), both prepared by EMCON.

In November 1988, voters passed the State of Washington Hazardous Waste Cleanup - Model Toxics Control Act (MTCA), which requires remedial actions at landfills and other sites contaminated with hazardous substances. As a result, Ecology issued Order No. DE 89-S119 under the MTCA in April 1989. The order, issued to Leichner as a potentially liable person (PLP) for the Leichner Landfill, required further investigation and remediation of contaminated ground water beneath the site. In June 1989, Ecology amended Order No. DE 89-S119. As required by the order, an Interim Report prepared by EMCON was submitted to Ecology in November 1989. The Interim Report summarized hydrogeologic and treatability studies on-going at the time of writing. In August 1990, Ecology issued the Second Amendment to Order No. DE 89-S119 outlining further required investigations. The results of these further investigations are summarized in the October 1991 Remedial Investigation Amendment prepared by EMCON. Since issuance of Order DE 89-S119, project progress has been summarized in monthly progress reports submitted to Ecology, the Southwest Washington Health District, the City of Vancouver, and the Clark County Department of Public Works.

Based on technical considerations and costs, the April 1989 order established that ground water withdrawal and treatment would be part of the final remedial action alternative. It was also established that treated ground water would be discharged to the stormwater control system. Order No. DE 89-S119 also required an evaluation and determination of the most effective pump and treat technology to remediate contaminated ground water at Leichner Landfill. As a result, a total of five additional documents evaluating various ground water pump and treat technologies at the site were prepared by EMCON and submitted to Ecology. The *Technical Memorandum for Ground Water Treatment Alternatives*, March 1990, evaluated alternative ground water treatment technologies proposed for bench- and pilot-scale studies. The *Technical Memorandum of Ground Water Modeling*, May 1990, described the numerical modeling used to define contaminant transport in ground water. The *Ground Water Treatment Bench-Scale Studies Report*, July 1990, presented results of the bench-scale studies performed by EMCON in March 1990. Results of the bench-scale studies were the basis for selecting the preferred treatment system evaluated during the pilot-scale study. In October 1990, the *Ground Water Treatment Pilot-Scale Study Experimental Plan* described the objectives, requirements, preliminary design, and experimental procedures to be performed in conducting eight pilot-scale study tests. The final document, *Ground Water Treatment Pilot-Scale Study Report*, September 1991, summarized results obtained from

requirements are outlined in a two volume operation and maintenance manual. Volume I addresses the landfill gas collection/destruction system, and was finalized in April, 1995. Volume II addresses the storm water system and the final cover system, and is currently in draft form.

Quarterly ground water monitoring has continued since final landfill closure in 1992. Ground water contaminant concentrations have declined since the unfinalized Consent Decree and Cleanup Action Plan were proposed in July 1992. This CAP reflects the changes that have occurred since the proposed July 1992 CAP. When the Consent Decree implementing this CAP becomes effective, the May 1993 Agreed order No. 93TC-S151 will terminate.

4. SUBSURFACE CONDITIONS

Leichner Landfill is underlain by two distinct geologic units. The Pleistocene age alluvium (Alluvium) extends from the ground surface to a depth of about 70 to 100 feet. Beneath the Alluvium is the upper member of the Pliocene age Troutdale formation. The Alluvium consists of sand, gravelly sand, and silty sand. The upper member of the Troutdale formation typically consists of sand and gravel, with a fine sand and silt matrix.

The hydrogeology of the site consists of an unsaturated, or vadose zone from the ground surface to a depth of about 30 to 40 feet; the Alluvial aquifer, an unconfined sand aquifer about 35 to 45 feet thick; and the Troutdale aquifer, a semi-confined to confined, cemented to unconsolidated, sand and gravel aquifer. East of the landfill, at monitoring well LB-4C, a local 20 foot thick confining/perching layer of interbedded silt, sandy silt and clayey silt is present at the base of the Alluvium. At LB-5C, south of the landfill, a 40 foot thick layer of interbedded sand and silty sand at the base of the Alluvium may act as a local semi-confining/perching layer. No other potential confining layer between the Alluvial and Troutdale aquifers is suggested at the site. A downward vertical hydraulic gradient from the alluvium to the Troutdale aquifer is indicated throughout the site. Local vertical hydraulic communication between the Alluvial and Troutdale aquifers has been observed in the area southwest of the landfill. Horizontal ground water flow in the Alluvial aquifer is to the southwest and west. In the Troutdale aquifer, horizontal ground water flow is predominately to the south.

The Troutdale aquifer is the drinking water supply for the City of Vancouver. There are two City of Vancouver well fields in operation near the landfill: The Orchards Well Field (Station 8) and the Andresen Road Well Field (Station 14). Station 8 is about 8,000 feet south-southeast of the site. The three wells at Station 8 withdraw ground water from the Troutdale aquifer at depth intervals of 86 to 105 feet, 94 to 109 feet, and 189 to 200 feet. At Station 14, located about 9,000 feet southwest of the site, two wells pump ground water from the Troutdale aquifer from depth intervals of 156 to 172 feet and 179 to 194 feet. Although most of the residences in the vicinity of the landfill now receive drinking water

5.2 Troutdale Aquifer

Monitoring wells completed in the Troutdale aquifer downgradient (south-southwest) of the landfill display elevated levels of inorganic water quality parameters, and metals. However, the Troutdale aquifer appears to be less impacted by the landfill than the Alluvial aquifer. Elevated inorganic water quality parameters include specific conductance, calcium, chloride, and sulfate. Total and/or dissolved manganese in concentrations exceeding the secondary drinking water standard of 0.05 mg/l have been detected in Troutdale monitoring wells LB-2D, LB-13D, LB-17D, and LB-21D. Concentrations of total and/or dissolved iron exceeding the secondary drinking water standard of 0.3 mg/l have been detected in Troutdale monitoring wells LB-1D, LB-4D (background), LB-10D, LB-13D, LB-14D, LB-17D, and LB-21D. Low concentrations of VOCs have sporadically been detected in monitoring wells LB-1D, LB-5D, LB-10D, and LB-27D. Low concentrations of VOCs (below drinking water standards and MTCA cleanup levels) were detected in domestic supply wells completed in the Troutdale aquifer. These wells are located about 3,000 ft southwest of the Lechner Landfill property boundary. It is not clear from these data alone whether these contaminants are from the landfill.

6.0 CLEANUP STANDARDS

As outlined in Washington Administrative Code (WAC) 173-340-700 (2)(a), establishing cleanup standards for individual sites requires the specification of cleanup levels, point(s) of compliance, and additional regulatory requirements that apply to a particular cleanup action.

6.1 Ground Water Cleanup Levels

Under WAC 173-340-720(1)(a), cleanup levels for ground water are based on the highest beneficial use of the affected ground water, and the reasonable maximum exposure expected to occur under both current and potential future site use conditions. The highest beneficial use of ground water from both the Alluvial and Troutdale aquifers is for drinking water. Therefore, cleanup standards are based on exposure to hazardous substances via ingestion of drinking water, which represents the reasonable maximum exposure at the site. Ground water cleanup levels were determined using the standard Method B. The cleanup of contaminated ground water at Lechner Landfill is not considered a routine cleanup by Ecology (see WAC 173-340-130(7)).

The Method B ground water cleanup levels and compliance levels for both the Alluvial and Troutdale aquifers are presented in Table 2. These parameters require cleanup levels because they were consistently detected in ground water at the site in concentrations that exceed cleanup levels. The cleanup levels for vinyl chloride and 1,1-dichloroethylene were calculated using the Method B equations in WAC 173-340-720 (3)(a)(ii) because the concentrations established under applicable state and federal laws are not sufficiently protective. To be considered sufficiently protective, all individual concentrations established

Although capping the landfill appears to have significantly reduced the quantity of leachate being generated, migration of ground water through portions of the landfill will be an ongoing potential source of leachate production. The technologies available to control the migration of leachate contaminated ground water are limited to physical or hydraulic containment. Containment via a slurry wall was evaluated in the RI/FS. A slurry wall is not technologically viable at the site because no continuous low permeability layer, which could serve as a tie-in for a containment wall, was identified within a depth of 150 ft below ground surface. In addition, a slurry wall would not impede the downward migration of contaminated ground water from the Alluvial to the Troutdale aquifer. In 1992, Ecology determined that hydraulic containment via pump and treat was the only technologically feasible alternative to control the lateral and vertical migration of leachate contaminated ground water, and to remediate leachate contaminated ground water. By hydraulically controlling the contaminant plume source, further off site migration would be minimized.

However, since the landfill was capped in 1992, ground water contaminant concentrations have decreased. The concentrations of VOCs, inorganic parameters, and metals in ground water at the site are now too low to justify ground water extraction and treatment. Based on ground water monitoring data, the landfill cover appears to be effectively controlling leachate production. Ongoing ground water monitoring is necessary to ensure that the landfill cover system continues to be effective. If ground water concentrations increase in the future, Ecology reserves the right to re-evaluate remedial actions required.

8. PROPOSED REMEDIAL ACTION ALTERNATIVE

The remedial action objective is to minimize further production and migration of leachate contaminated ground water in order to achieve cleanup standards at the points of compliance.

Capping the landfill has minimized lateral and vertical migration of leachate contaminated ground water by reducing the volume of leachate generated. As discussed previously in this document, capping the landfill was implemented as part of the MFS closure requirements. In addition to meeting MFS requirements, the landfill cap, gas control/recovery system, the surface water and erosion control system, and improvements to the dumpster and truckwash areas are remedial actions under the MTCA.

The post-closure requirements of Chapter 173-304 WAC and compliance monitoring will ensure that the above remedial actions achieve the remedial action objective. Therefore, the selected cleanup action consists of final landfill closure and post-closure requirements outlined in Chapter 173-304 WAC, and compliance monitoring as approved by Ecology. Lechner shall obtain a post-closure permit from the Southwest Washington Health District and shall submit a compliance monitoring plan to Ecology for review and approval.

- g. Water Quality Standards for Surface Waters of the State of Washington, Chapter 173-201 WAC.
- h. Minimum Functional Standards for Solid Waste Handling, Chapter 173-304 WAC.
- i. Dangerous Waste Regulations, Chapter 173-303 WAC.
- j. Washington Clean Air Act, Chapter 70.94 RCW.
- k. Washington Industrial Safety and Health Act (WISHA).

Federal Laws and Regulations

- l. Resource Conservation and Recovery Act (RCRA).
- m. Occupational Safety and Health Act (OSHA), 29 CFR subpart 1910.120.
- n. Federal Water Pollution Control Act of 1972 (Clean Water Act).
- o. Water Quality Act of 1987:
 - 1) Section 308. Establishes water quality criteria for toxic pollutants.
 - 2) Section 402. Establishes the NPDES permit process for discharges to surface water bodies.
- p. Safe Drinking Water Act of 1974.

The above list of ARARs does not preclude subsequent identification of applicable state and federal laws (WAC 173-340-360 (10)(a)(vii)). The selected cleanup action is capable of complying with all of the above ARARs.

9.4 Compliance Monitoring

Compliance monitoring requirements are specified in WAC 173-340-410. The following compliance monitoring will be included as part of the selected cleanup action:

- a. Protection monitoring will be provided to ensure protection of human health and the environment during the operation and maintenance period of the landfill cover system.
- b. Performance monitoring will be provided to confirm the cover system has achieved cleanup standards, and all other performance criteria (ARARs). Performance monitoring data collected since landfill closure in September 1992 will be used to determine if cleanup levels have been achieved.

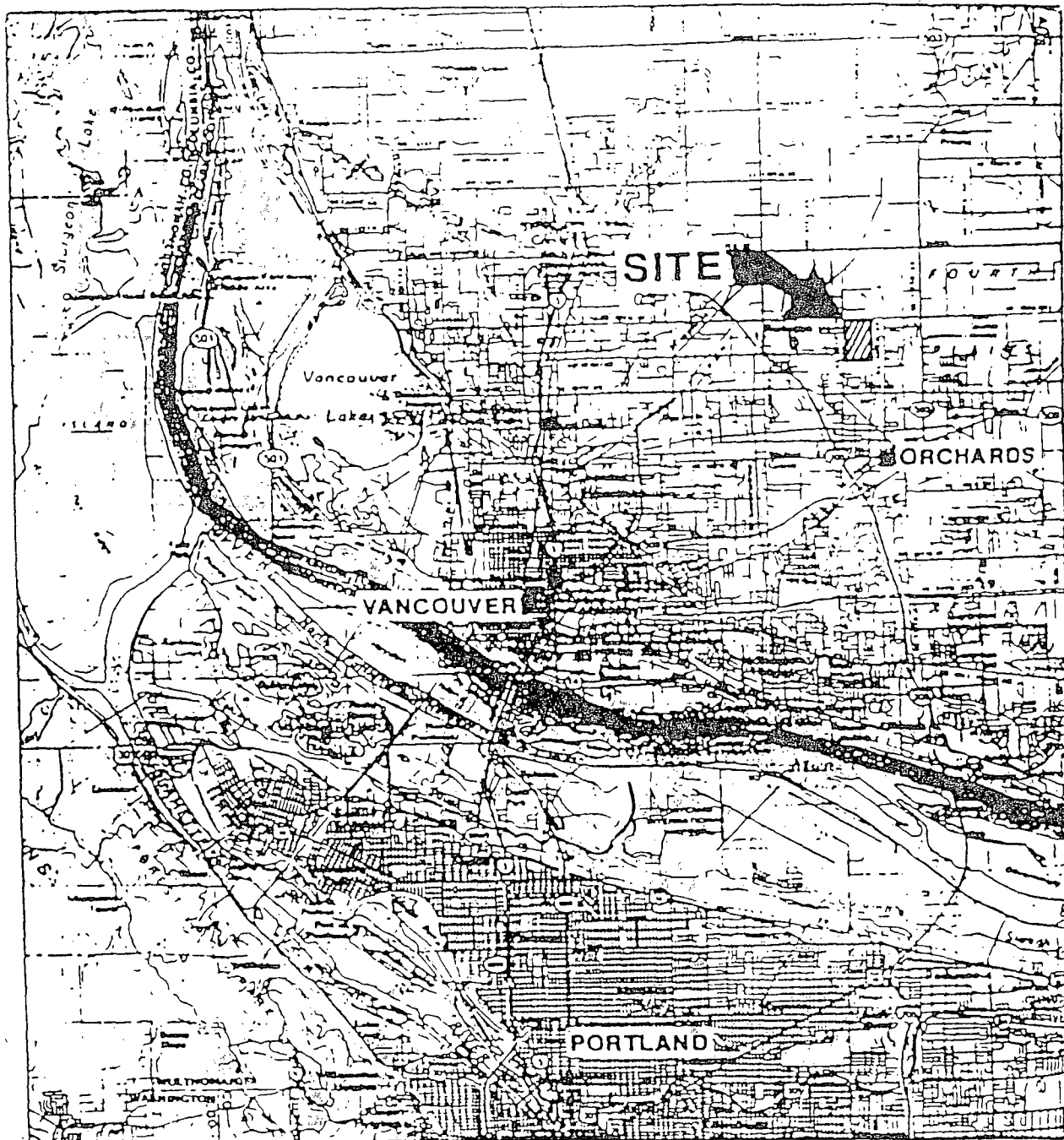
maintenance and monitoring activities shall continue for at least a twenty year period or until the health department finds that post-closure monitoring has established that the facility is stabilized (i.e., little or no settlement, gas production, or leachate generation). In addition, WAC 173-340-360(8)(b) requires long-term monitoring and institutional controls to continue until residual hazardous substance concentrations no longer exceed site cleanup levels. The institutional controls required for this site are described in Exhibit C, Restrictive Covenant, of the Consent Decree implementing this CAP.

9.10 Addresses Community Concerns

Community acceptance was evaluated based on the comments received during the public comment period. Public comments were considered during preparation of this final CAP.

Table 1. Pre-remedial and Post-remedial VOC Distribution in the Alluvial Aquifer.

<u>Volatile Organic Compound</u>	<u>Pre-1992 Data</u>	<u>Post-1992 Data</u>
Tetrachloroethylene (PCE)	< 1.0 - 21.2 ppb	< 0.2 - 1.4 ppb
1,1,1-Trichloroethane	< 1.0 - 22.0 ppb	< 0.1 - 0.3 ppb
Trichloroethylene (TCE)	< 1.0 - 8.6 ppb	0.2 - 0.3 ppb
1,1-Dichloroethylene (1,1-DCE)	< 1.0 - 5.1 ppb	< 0.1 - 1.6 ppb
Chlorobenzene	< 1.0 - 2.4 ppb	< 0.1 - 1.9 ppb
Cis -1,2 Dichloroethylene (cis-1,2-DCE)	< 1.0 - 40.0 ppb	< 0.1 - 6.6 ppb
Vinyl Chloride	< 1.0 - 6.0 ppb	< 0.1 - 0.2 ppb
1,1-Dichloroethane (1,1-DCA)	< 1.0 - 13.0 ppb	< 0.1 - 3.6 ppb
Chloroethane	< 1.0 - 14.0 ppb	< 0.1 - 6.6 ppb
1,4-Dichlorobenzene (1,4-DCB)	< 1.0 - 2.3 ppb	< 0.1 - 1.6 ppb



WASHINGTON

0 2.5 5

SCALE (miles)



Sweet-Edwards
EMCON

Figure 1
LEICHTER LANDFILL
SITE LOCATION MAP

DATE 11-89
OWN. JA
APPR. KL
REVIS.
PROJECT NO.
S8202.13

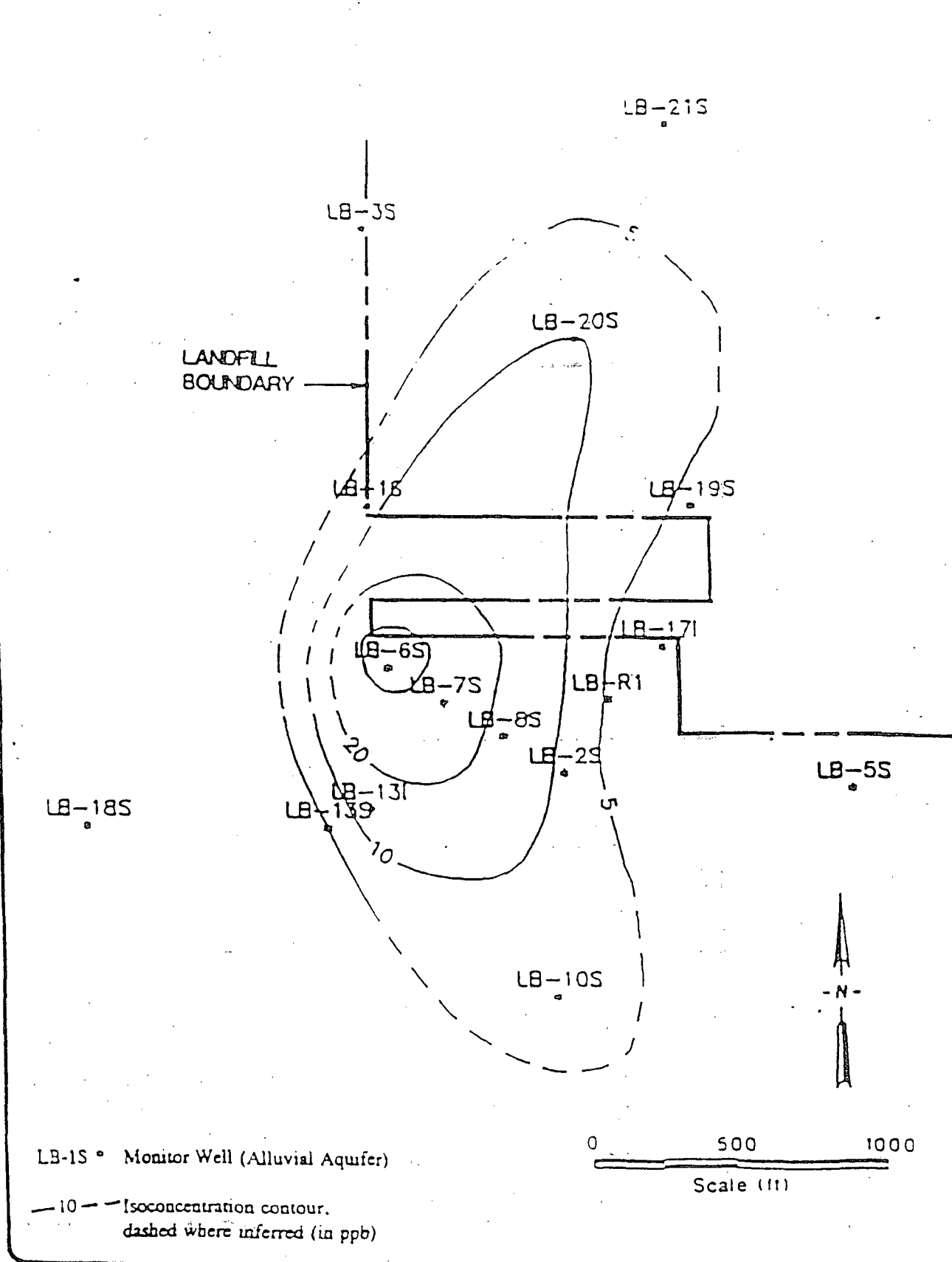


Figure 3
LEICHER LANDFILL
Pre-Remedial Action Total VOC Concentration
Averaged Values - Alluvial Aquifer 1987 - 1992

EXHIBIT C

RESTRICTIVE COVENANT

The property that is the subject of this Restrictive Covenant is the subject of remedial action under Chapter 70.105D RCW. The work done to clean up the property (hereafter the "Cleanup Action") is described in the Consent Decree entered in State of Washington v. Leichner Brothers Land Reclamation Corporation, Clark County Superior Court No. _____ and in exhibits to the Consent Decree. This Restrictive Covenant is required by the State of Washington Department of Ecology pursuant to WAC 173-340-440 because contaminants will be left in place on the property. This Restrictive Covenant is necessary to assure the continued protection of human health and the environment and the integrity of the Cleanup Action.

The undersigned, Leichner Brothers Land Reclamation Corporation, is the fee owner of real property in the County of Clark, State of Washington (legal description attached), hereafter referred to as the "Property." The Property encompasses both surface and subsurface estates. Leichner Brothers Land Reclamation Corporation makes the following declarations as to limitations, restrictions, and uses to which the Property may be put, and specifies that such declarations shall constitute covenants to run with the land, as provided by law, and shall be binding on all parties and all persons claiming under them, including all current and future owners of any portion of or interest in the Property.

Section 1. No groundwater may be taken for domestic purposes from any well on the Property.

Section 2. Any activity on the Property that may interfere with the Cleanup Action is prohibited. Any activity on the Property that may result in the release of a hazardous substance that was contained as a part of the Cleanup Action is prohibited, unless allowed under the terms of an NPDES or state waste discharge permit.

Section 3. The owner of the Property must give written notice to the Department of Ecology, or to a successor agency, of the owner's intent to convey any interest in the Property. No conveyance of title, easement, lease, or other interest in the Property may be consummated by the owner without adequate and complete provision for the continued operation, maintenance, and monitoring of the Cleanup Action.

9207200144

RE-RECORDED TO CORRECT LEGAL DESCRIPTION

EXHIBIT D

OPTION AGREEMENT

OPTION AGREEMENT dated as of the 26 day of May, 1988 between Leichner Brothers Land Reclamation Corporation, a Washington corporation (the "Company") and Clark County, a political subdivision of the State of Washington (the "County").

RECITALS

A. The Company owns a sanitary landfill "Landfill" and other property located in the vicinity of Northeast 94th Avenue and 86th Street, which is in the unincorporated portion of the County (the "Property").

B. The Company, the County, and the City of Vancouver have entered into a Disposal Agreement pursuant to which the Company has agreed to grant the County the option to purchase a portion of such Landfill.

AGREEMENTS

In consideration of the mutual covenants and promises contained herein, the parties hereto hereby agree as follows:

1. Grant of Option. The Company hereby grants the County the option to purchase all or a portion of the Property for a purchase price of one dollar (\$1.00) (the "Option Price") in accordance with the terms and provisions of this Agreement.

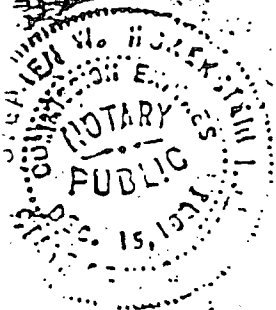
2. Property. Attached hereto as Exhibit A is a legal description and survey for the property subject to this Option. The parties acknowledge and agree that the description shall be modified by mutual agreement of the parties upon completion of the closure of the Leichner Landfill to include that property actually comprising the active face of the landfill and including the detention facilities and the property acquired from Aune Koski.

3. Exercise of Option. The County shall exercise its option by written notice of exercise to the Company, together with the Option Price both received by the Company within the time period commencing on the date that the Southwest Washington Health District issues a certificate of completion of post-closure pursuant to WAC 173-304-407(7)(c) finding that the Landfill is stabilized with little or no settlement, gas production or leachate generation, and terminating one year later.

STATE OF WASHINGTON)
 : ss.
County of Clark)

I certify that ROSS LEVINE appeared personally before me and that I know or have satisfactory evidence that HE signed this instrument, on oath stated that HE was authorized to execute the instrument and acknowledged it as the WILLIAM LEVINE of Leichner Brothers Land Reclamation Corporation to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this 26 day of MAY, 1989.

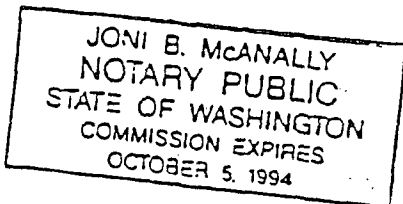


Ross Levine
NOTARY PUBLIC FOR WASHINGTON
My Commission Expires: 12/1/91

STATE OF WASHINGTON)
 : ss.
County of Clark)

I certify that ROSSE KUTLER appeared personally before me and that I know or have satisfactory evidence that SHE signed this instrument, on oath stated that SHE was authorized to execute the instrument and acknowledged it as the Chairman of the Board - Leichner Brothers of Clark County to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this 28th day of July, 1989.



Joni B. McAnally
NOTARY PUBLIC FOR WASHINGTON
My Commission Expires: 10-5-94

THENCE along said 112.00 foot radius curve to the right
71.20 feet;

THENCE South $38^{\circ} 23' 58''$ West 145.23 feet to a 112.00
foot radius curve to the left;

THENCE along said 112.00 foot radius curve to the left
67.84 feet;

THENCE South $03^{\circ} 41' 36''$ West 334.98 feet to a 81.16
foot radius curve to the right;

THENCE along said 81.16 foot radius curve to the right
96.69 feet;

THENCE South $71^{\circ} 56' 50''$ West 100.00 feet to the End
Of Said Easement.



11/30/88

~~THENCE North 45° 15' 23" West 53.98 feet to a 1/2" iron rod set by Olson Engineering;~~

THENCE North 68° 47' 29" West 46.58 feet to a 1/2" iron rod set by Olson Engineering;

THENCE North 89° 04' 51" West 99.87 feet to a 1/2" iron rod set by Olson Engineering;

THENCE North 00° 00' 24" East 106.08 feet to a 1/2" iron rod set by Olson Engineering;

THENCE North 86° 10' 54" West 107.89 feet to a 1/2" iron rod set by Olson Engineering;

THENCE North 89° 03' 07" West 150.73 feet to a 1/2" iron rod set by Olson Engineering;

THENCE North 88° 22' 33" West 198.80 feet to a 1/2" iron rod set by Olson Engineering;

THENCE North 89° 30' 03" West 58.91 feet to a 1/2" iron rod set by Olson Engineering;

~~THENCE South 87° 56' 13" West 136.96 feet to a 1/2" iron rod set by Olson Engineering;~~

THENCE South 75° 26' 45" West 30.55 feet to a 1/2" iron rod set by Olson Engineering;

THENCE South 87° 53' 45" West 20.26 feet to a 1/2" iron rod set by Olson Engineering;

THENCE South 72° 27' 01" West 52.91 feet to a 1/2" iron rod set by Olson Engineering;

THENCE South 88° 51' 39" West 54.74 feet to a 1/2" iron rod set by Olson Engineering;

THENCE South 88° 51' 39" West 54.45 feet to a 1/2" iron rod set by Olson Engineering;

THENCE South 00° 49' 51" West 167.05 feet to a 1/2" iron rod set by Olson Engineering;

THENCE North 88° 47' 08" West 100.64 feet to a point on the East line of that tract described in Exhibit _____ of the Boundary Agreement recorded in Clark County Auditor's File _____;

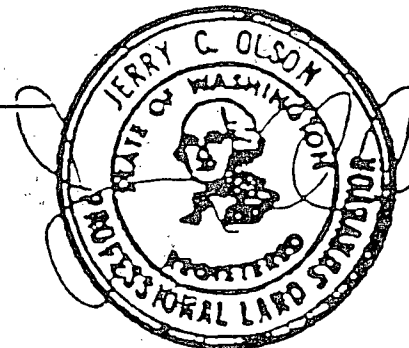
THENCE South 02° 21' 26" West along said East line 132.00 feet to the Southeast corner of that tract described in said Exhibit;

~~THENCE South 02° 09' 53" West along said East line 80.01~~
feet to the South line of said McPherson tract;

THENCE North 88° 29' 04" West along the South line of
said McPherson tract 90.01 feet to the West line of said
McAllister D.L.C;

THENCE South 02° 09' 58" West along said West line
236.55 feet to the POINT OF BEGINNING.

EXCEPT any portion thereof lying in N.E. 9th Avenue.



12/5/88

OLSON



PROPERTY

12/5/83

NO	DATE	DISTANCE
1	1005-10-15-10	37.37
2	1005-10-15-10	41.00
3	1005-10-15-10	41.00
4	1005-10-15-10	41.00
5	1005-10-15-10	41.00
6	1005-10-15-10	41.00
7	1005-10-15-10	41.00
8	1005-10-15-10	41.00
9	1005-10-15-10	41.00
10	1005-10-15-10	41.00
11	1005-10-15-10	41.00
12	1005-10-15-10	41.00
13	1005-10-15-10	41.00
14	1005-10-15-10	41.00
15	1005-10-15-10	41.00
16	1005-10-15-10	41.00
17	1005-10-15-10	41.00
18	1005-10-15-10	41.00
19	1005-10-15-10	41.00
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97	1005-10-15-10	41.00
98	1005-10-15-10	41.00
99	1005-10-15-10	41.00
100	1005-10-15-10	41.00

PUBLIC SERVICES
JUL 20 52 PM '92

THENCE North 02° 21' 36" East along said East line 330.79 feet to the Northeast corner of said Kuhnhausen parcel:

THENCE North 02° 21' 36" East 103.27 feet:

THENCE North 89° 50' 17" East 263.64 feet:

THENCE South 79° 14' 48" East 238.86 feet:

THENCE South 87° 14' 12" East 133.24 feet:

THENCE South 85° 56' 14" East 199.37 feet:

THENCE North 45° 17' 17" East 77.77 feet:

THENCE North 89° 42' 20" East 238.67 feet to the East line of said McAllister Donation Land Claim:

THENCE South 02° 04' 21" West along said East line 231.02 feet:

THENCE South 02° 07' 55" West along said East line 1839.88 feet to the Northwest corner of the Napoleon McGilvery Donation Land Claim:

THENCE South 01° 59' 43" West along said East line 492.82 feet to the Southeast corner of said McAllister Donation Land Claim:

THENCE North 88° 29' 04" West along the South line of said McAllister Donation Land Claim 227.44 feet to the Northeast corner of the Northwest quarter of Lot 1 of the Newton Addition:

THENCE South 01° 43' 50" West along the East line of said Northwest quarter 473.72 feet to that line established by boundary agreement as recorded under Auditor's File # 9108090260 of Clark County records:

THENCE North 38° 16' 04" West along said boundary agreement line 981.21 feet:

THENCE South 01° 43' 50" West along said boundary agreement line 0.41 feet to the South line of the North half of Lot 3 of said Newton Addition:

THENCE North 88° 16' 06" West along said South line and the South lines of the North half of Lot 4 and the North half of Lot 5 of said Newton Addition 1119.46 feet to the centerline of NE 94th Ave:

THENCE North 02° 10' 22" East along said centerline 466.22 feet to the Southwest corner of the McAllister Donation Land Claim:

THENCE North 02° 09' 53" East along the West line of said McAllister Donation Land Claim 236.55 feet to the Southwest corner of that tract conveyed to Arvid E Koski by deed recorded under Auditor's File # G 13438 of Clark County records:

THENCE South 88° 29' 04" East along the South line of said Koski tract 90.00 feet to the Southeast corner thereof:

EXHIBIT F

PUBLIC PARTICIPATION PLAN
LEICHNER BROTHERS LANDFILL
REMEDIAL ACTION
VANCOUVER, WASHINGTON

Washington Department of Ecology
Southwest Regional Office
Toxics Cleanup Program
Olympia, Washington

January 1996

Leichner Brothers Landfill Public Participation Plan
January 1996

The following reports have been completed by LBLRC:

Leichner Landfill Remedial Investigation Report, February 1988
Feasibility Study for the Leichner Landfill, April 1988
Leichner Brothers Landfill Master Operations Plan, February 1989
Interim Report Hydrogeologic Characterization and Pilot Treatment System,
November 1989
Technical Memorandum for Ground Water Treatment Alternatives, March 1990
Technical Memorandum of Ground Water Modeling, May 1990
Ground Water Treatment Bench-Scale Studies Report, July 1990
Ground Water Treatment Pilot-Scale Study Experimental Plan, October 1990
Ground Water Treatment Pilot-Scale Study Report, September 1991
Remedial Investigation Report Amendment, October 1991
Leichner Landfill Domestic Well Canvass Work Plan, 1993
Leichner Landfill Domestic Well Canvass, 1993
Construction Report, Leichner Brothers Landfill Closure, 1993
*Operation and Maintenance Manual for Leichner Brothers Landfill, Volume I:
Landfill Gas Extraction System*, 1995
*Operation and Maintenance Manual for Leichner Brothers Landfill, Volume II:
Storm Water System and Final Cover System*, 1996

A number of remedial actions have been completed at the landfill. An engineered composite cap cover system was constructed over the landfill. In addition, a landfill gas control/recovery system was installed, a stormwater control system was implemented, a domestic well survey undertaken, and an alternate water supply provided.

Ecology will oversee the project and has responsibility for public participation. LBLRC assisted Ecology in preparing this public participation plan.

- C. This public participation plan outlines public participation activities to be conducted for the phases covered by this plan. This plan will be reviewed at each phase of cleanup, and amended or rewritten as appropriate.

The purpose of the public participation effort and of this plan is to ensure that the affected public and governmental agencies are kept informed as the remedial action proceeds, and that each has an opportunity to contribute information regarding the site, and to comment on the cleanup activities.

- D. This plan is divided into the following sections:

- II. Site Description
 - A. Land Use
 - B. Technical Aspects
- III. Community Background

in the Troutdale aquifer. These wells are located about 3000 feet southwest of the Leichner Landfill property and it is unclear from these data alone that the VOCs are from the landfill.

When Ecology initially considered the selection of a remedial action for this site in 1992, contaminant levels and technical considerations resulted in Ecology selecting ground water extraction and treatment as the remedial action. Since then, conditions at the landfill have changed. Capping the landfill has minimized the lateral and vertical migration of leachate by reducing the volume of leachate generated. Ground water contaminant concentrations have decreased to the point that an extraction and treatment system is no longer justified. Ongoing ground water monitoring is required, as is long-term maintenance of the cover system, the gas control system, and the storm water management system.

Leichner has agreed to apply for a post-closure permit from the Southwest Washington Health District. When the permit is in place, the Health District will supervise the monitoring and maintenance activities and the landfill with Ecology oversight.

III. COMMUNITY BACKGROUND

A. Community Profile

Clark County's population is about 245,000. The property served as the only municipal landfill permitted within Clark County. The landfill closed on December 31, 1991 and the community now exports its solid waste to the Finley Buttes Landfill in Morrow County, Oregon.

The community is fairly concentrated near the urbanized areas, including Vancouver and the cities of Camas and Washougal. The property lies north of these urbanized areas, near Orchards. However, the urbanization has sprawled and residential housing borders three sides of the landfill.

B. Key Community Concerns

The key community concern is protection of drinking water quality. An alternate water supply has been provided to many of the homes in the area and all new homes in the vicinity will be connected to the municipal water system. The domestic well survey performed in 1993 investigated the impact of the landfill on nearby domestic wells.

IV. PUBLIC PARTICIPATION ACTIVITIES

The public participation plan for the Leichner Brothers Landfill will consist of the following activities:

Leichner Brothers Landfill Public Participation Plan
January 1996

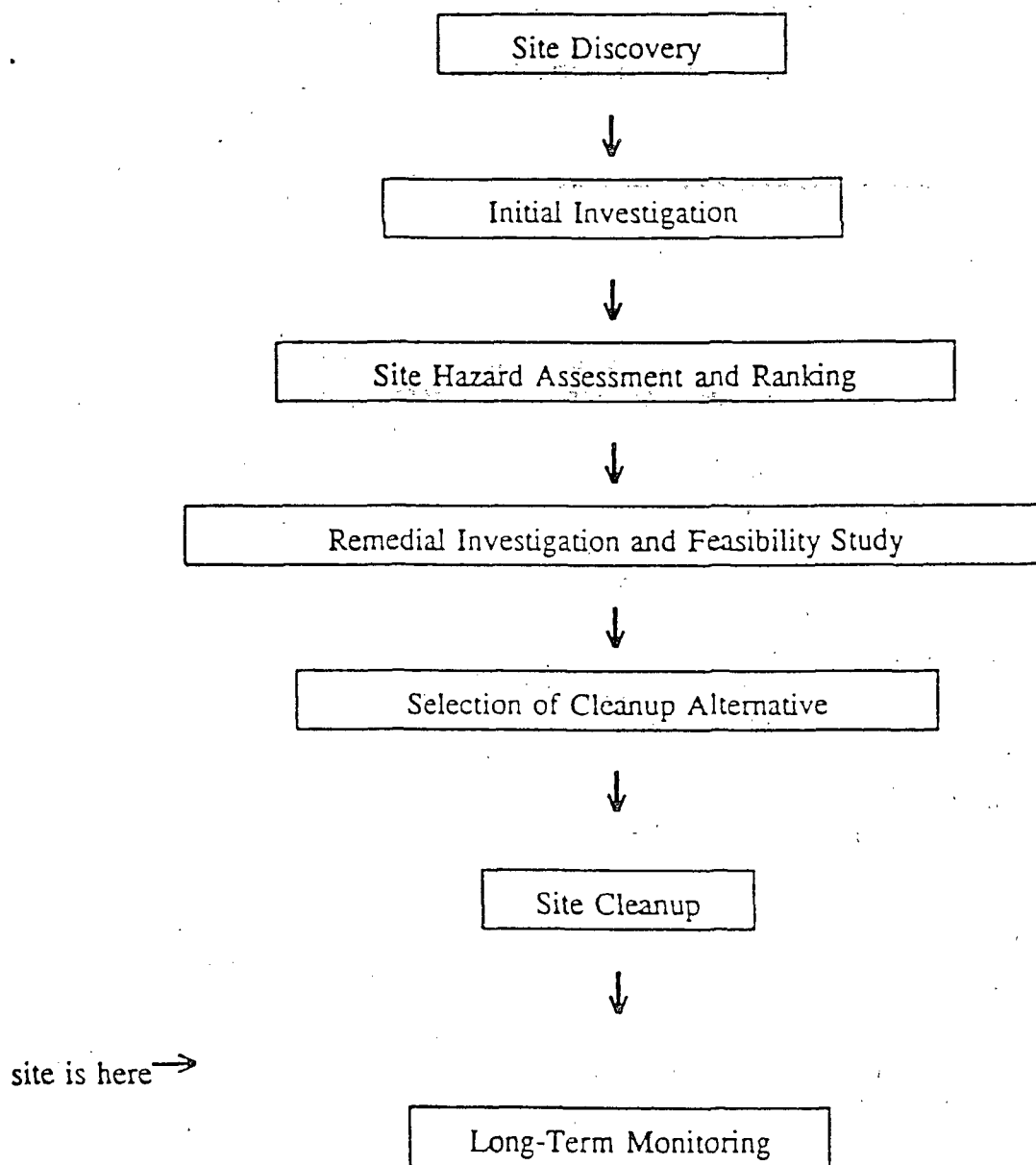
repositories. Notice of availability will be published in the Ecology Site Register.

- E. If there is a need for additional public participation activities, the public shall be notified through a legal notice in the Vancouver Columbian, and this public participation plan will be updated and delivered to the information repositories listed above.
- F. Public notice announcements regarding the site will be placed in the Ecology Site Register for each comment period. Notice was listed in the January 30, 1996 Site Register.

PUBLIC PARTICIPATION PLAN - APPENDIX B

TIME LINE

Each of these steps take varying amounts of time ranging from less than one year to several years, depending on the complexity of the site.



PUBLIC PARTICIPATION PLAN - APPENDIX D

GLOSSARY

Agreed order: A legal document, issued by Ecology, which formalizes an agreement between Ecology and the potentially liable persons for the actions needed at a site. An agreed order may be used for all remedial actions except for non-routine cleanup actions and interim actions that constitute a substantial majority of a cleanup action likely to be selected. Since an agreed order is not a settlement, an agreed order shall not provide for mixed funding, a covenant not to sue, or protection from claims for contribution. An agreed order means that the potentially liable person agrees to perform remedial actions at the site in accordance with the provisions of the agreed order and that Ecology will not take additional enforcement action against the potentially liable person to require those remedial actions specified in the agreed order so long as the potentially liable person complies with the provisions of the order. Agreed orders are subject to public comment. If an order substantially changes, an additional public comment period is provided.

Applicable state and federal laws: All legally applicable requirements and those requirements that Ecology determines are relevant and appropriate requirements.

Area background: The concentrations of hazardous substances that are consistently present in the environment in the vicinity of a site which are the result of human activities unrelated to releases from that site.

Carcinogen: Any substance or agent that produces or tends to produce cancer in humans.

Chronic toxicity: The ability of a hazardous substance to cause injury or death to an organism resulting from repeated or constant exposure to the hazardous substance over an extended period of time.

Cleanup: The implementation of a cleanup action or interim action.

Cleanup action: Any remedial action, except interim actions, taken at a site to eliminate, render less toxic, stabilize, contain, immobilize, isolate, treat, destroy, or remove a hazardous substance that complies with cleanup levels; utilizes permanent solutions to the maximum extent practicable; and includes adequate monitoring to ensure the effectiveness of the cleanup action.

Cleanup action plan: A document which selects the cleanup action and specifies cleanup standards and other requirements for a particular site. The cleanup action plan, which follows the remedial investigation/feasibility study report, is subject to a public comment period. After completion of a comment period on the draft cleanup action plan, Ecology issues a final cleanup action plan.

Leichner Brothers Landfill Public Participation Plan
January 1996

Feasibility study (FS): Provides identification and analysis of site cleanup alternatives, and is usually completed within a year. The entire RI/FS process takes about two years and is followed by the cleanup action plan. Remedial action evaluating sufficient site information to enable the selection of a cleanup action plan.

Free product: A hazardous substance that is present as a nonaqueous phase liquid (that is, liquid not dissolved in water).

Ground water: Water in a saturated zone beneath the surface of land or below a surface water.

Hazardous site list: A list of ranked sites that require further remedial action. These sites are published in the Ecology Site Register.

Hazardous substance: Any dangerous or extremely hazardous waste as defined in RCW 70.105.010 (5) *(any discarded, useless, unwanted, or abandoned substances including, but not limited to, certain pesticides, or any residues or containers of such substances which are disposed of in such quantity or concentration as to pose a substantial present or potential hazard to human health, wildlife, or the environment because such wastes or constituents or combinations of such wastes: (a) have short-lived, toxic properties that may cause death, injury, or illness or have mutagenic, teratogenic, or carcinogenic properties; or (b) are corrosive, explosive, flammable, or may generate pressure through decomposition or other means.)* and (6) *(any dangerous waste which (a) will persist in a hazardous form for several years or more at a disposal site and which in its persistent form presents a significant environmental hazard and may be concentrated by living organisms through a food chain or may affect the genetic makeup of man or wildlife; and is highly toxic to man or wildlife; (b) if disposed of at a disposal site in such quantities as would present an extreme hazard to man or the environment.)*, or any dangerous or extremely dangerous waste as designated by rule under Chapter 70.105 RCW; any hazardous substance as defined in RCW 70.105.010 (14) *(any liquid, solid, gas, or sludge, including any material, substance, product, commodity, or waste, regardless of quantity, that exhibits any of the characteristics or criteria of hazardous waste as described in rules adopted under this chapter.)* or any hazardous substance as defined by rule under Chapter 70.105 RCW; petroleum products.

Hazardous waste site: Any facility where there has been a confirmation of a release or threatened release of a hazardous substance that requires remedial action.

Independent cleanup action: Any remedial action conducted without Ecology oversight or approval, and not under an order or decree.

Initial investigation: An investigation to determine that a release or threatened release may have occurred that warrants further action.

Interim action: Any remedial action that partially addresses the cleanup of a site. It is an action that is technically necessary to reduce a threat to human health or the environment by eliminating or substantially reducing one or more pathways for exposure to a hazardous

Leichner Brothers Landfill Public Participation Plan
January 1996

Recovery by-products: Any hazardous substance, water, sludge, or other materials collected in the free product removal process in response to a release from an underground storage tank.

Release: Any intentional or unintentional entry of any hazardous substance into the environment, including, but not limited to, the abandonment or disposal of containers of hazardous substances.

Remedial action: Any action to identify, eliminate, or minimize any threat posed by hazardous substances to human health or the environment, including any investigative and monitoring activities of any release or threatened release of a hazardous substance, and any health assessments or health effects studies conducted in order to determine the risk or potential risk to human health.

Remedial investigation (RI): Any remedial action which provides information on the extent and magnitude of contamination at a site. This usually takes 12 to 18 months and is followed by the feasibility study. The purpose of the remedial investigation/feasibility study is to collect and develop sufficient site information enabling the selection of a cleanup action.

Responsiveness summary: A compilation of all questions and comments to a document open for public comment and their respective answers/replies by Ecology. The responsiveness summary is mailed, at a minimum, to those who provided comments and its availability is published in the Ecology Site Register.

Risk: The probability that a hazardous substance, when released into the environment, will cause an adverse effect in exposed humans or other living organisms.

Sensitive environment: An area of particular environmental value, where a release could pose a greater threat than in other areas including: wetlands; critical habitat for endangered or threatened species; national or state wildlife refuge; critical habitat, breeding or feeding area for fish or shellfish; wild or scenic river; rookery; riparian area; big game winter range.

Site: The same as facility (see above).

Site characterization report: A written report describing the site and nature of a release from an underground storage tank, as described in WAC 173-340-450 (4)(b).

Site hazard assessment (SHA): An assessment to gather information about a site to confirm whether a release has occurred and to enable Ecology to evaluate the relative potential hazard posed by the release. If further action is needed, an RI/FS is undertaken. 173-340-320.

Site Register: Ecology publication issued every two weeks listing major activities conducted statewide related to the study and cleanup of hazardous waste sites under the Model Toxics Control Act. To receive this publication, please call (206) 438-3081.

**COPY
ORIGINAL FILED**

FEB 12 2002

JoAnne McBride, Clerk, Clark Co

**IN THE SUPERIOR COURT FOR THE STATE OF WASHINGTON
FOR THE COUNTY OF CLARK**

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY,

Plaintiff,

v.

LEICHNER BROTHERS LAND
RECLAMATION CORPORATION,

Defendant.

No. 96-2-03081-7

**AMENDMENT NO. 1 TO
CONSENT DECREE**

This amendment to Consent Decree No. 96-2-03081-7 is issued pursuant to the authority of Chapter 70.105D RCW, the Model Toxics Control Act (MTCA).

STATEMENT OF CURRENT CONDITIONS

A. Consent Decree No. 96-2-03081-7 was signed by the Court and filed on July 17, 1996. The Decree was a negotiated settlement between the Washington State Department of Ecology (Ecology) and Leichner Brothers Land Reclamation Corporation (Leichner).

B. The Consent Decree governed the remedial activities for the Leichner Brothers Land Reclamation Corporation Landfill Site (Site) located near Vancouver, WA and surrounding areas where hazardous substances have come to be located. The Site encompassed the area described in Exhibit A attached hereto.

C. The Site included a specific area described in Exhibit B attached hereto. The area described in Exhibit B is currently slated to be redeveloped into residential housing units as part of the Neston Square Development Project.

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1. The soils within the area described in Exhibit B are not contaminated, and currently no waste materials are present.
2. The groundwater beneath the area described in Exhibit B is not contaminated.
3. The area described in Exhibit B is upgradient of the Site, such that no contamination from soils or groundwater can migrate to the area.
4. The area described in Exhibit B contains monitoring well LB-9S. This monitoring well has never indicated any contamination in groundwater beneath the area. Monitoring well LB-9S will be abandoned as part of the redevelopment of the area described in Exhibit B, and will be replaced with a piezometer in the public right-of-way adjacent to the area where monitoring well LB-9S is located.
5. To ensure continued monitoring of the Leichner Landfill, the gas probe located in the area described in Exhibit B shall be relocated to a point that is closer to the Leichner Landfill to better monitor gas production on the landfill for the benefit of human health and the environment.
6. To ensure proper functioning of the Leichner Landfill, the stormwater discharge line located in the area described in Exhibit B shall be relocated to the western boundary of Exhibit "B" to allow for current and future redevelopment of the Exhibit "B" property.

D. The Site included an area described in Exhibit C attached hereto. The area described in Exhibit C will be maintained by Leichner under the terms and conditions of the Consent Decree and does not represent a part of the Neston Square Development Project.

E. This amendment to the Consent Decree is to redefine the boundaries of the Site that will be subject to the Consent Decree. Specifically, this amendment to the Consent Decree will remove the area described in Exhibit B from the Site.


F. Ecology has concluded that the removal of the area described in Exhibit B from the Site is in the public interest, and will not pose a threat to human health or the environment.

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AMENDMENT TO CONSENT DECREE

Based on the foregoing, the parties stipulate and agree that the Decree, including Exhibits A and B should be amended, pursuant to the provisions of Section XV, "AMENDMENT OF CONSENT DECREE", as follows:

- A. All of the terms of the Consent Decree remain in effect unless expressly amended herein.
- B. Exhibit A (Site Diagram) to the Consent Decree shall be amended as follows:
 - (1) The area designated in Exhibit B is hereby removed from the Site. A revised Site Diagram (Exhibit A to the Consent Decree) is attached.
 - (2) The area designated in Exhibit C remains part of the Site. A revised Site Diagram (Exhibit A to the Consent Decree) is attached.
- C. The area designated in Exhibit B shall no longer be subject to the requirements and restrictions of the Consent Decree.

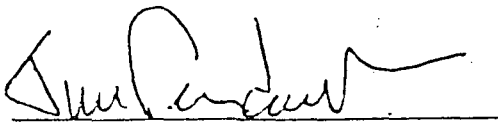


JUDGE / COMMISSIONER
Clark County Superior Court

1 DEPARTMENT OF ECOLOGY

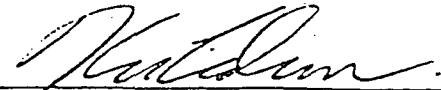
CHRISTINE O. GREGOIRE
Attorney General

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4 By:



JIM PENDOWSKI
Program Manager
Toxics Cleanup Program

By:



KEN LEDERMAN, WSBA #26515
Assistant Attorney General
Attorneys for Plaintiff

5
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7 Date:

1/25/02

Date:

2/5/02

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9 LEICHTNER BROTHERS LAND
10 RECLAMATION CORPORATION

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12 By:

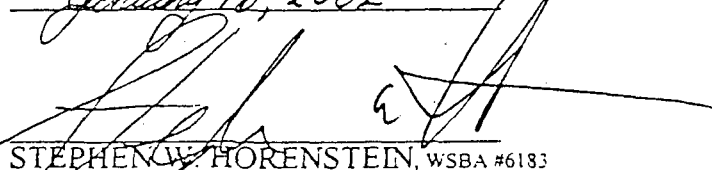


CRAIG ZEICHNER
President
Leichtner Brothers Land Reclamation Corporation

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15 Date:

January 16, 2002

16
17 By:



STEPHEN W. HORENSTEIN, WSBA #6183
Miller Nash LLP
Attorneys for Defendant

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19 Date:

1/16/01

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35369464 310/310 F-177

SURVEY IN THE
J. MCALLISTER D.L.C. & WM. GOLDBECK D.L.C.
IN
SEC. 4, T2N, R2E & THE N 1/2 OF
SEC. 33, T3N, R2E, WM.
CLARK COUNTY



Scale of 40 chains
shown by a line 1 inch
in length on this map

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NESTED
SQUARE
(PLANNED FOR
CONSENT
DEED)



OLSON
ENGINEERING, INC.
1111 HARRISON ST.
GRAND RAPIDS, MI 49503
P.O. BOX 1111

SUBJECT: SCIENTIFIC

ATTACHED: SCIENTIFIC

This map is a scientific map of the land shown on the attached plat. It is not a legal map and should not be used for legal purposes. It is a scientific map and should be used for scientific purposes only.

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